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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN RE: JOHN A. CASSANO,

Debtor.

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ROBERT L. PRYOR, as Trustee of the Bankruptcy
Estate of John A. Cassano,

Plaintiff,

05-cv-3240
(SJF)(ETB)

-against-

OPINION & ORDER

ROBERT W. ANDRUZZI

Defendant.

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FEUERSTEIN, J.:

Pending before the Court is Defendant Robert W. Andruzzi's motion to withdraw the reference of this action from the Bankruptcy Court pursuant to 28 U.S.C. § 157(d). According to Defendant, he is entitled to a jury trial for the fraudulent conveyance claim brought by Plaintiff-Trustee in Adversary Proceeding 804-8468-511, instituted by Plaintiff-Trustee in the above-captioned bankruptcy action on August 9, 2004. In the alternative, Defendant moves for an order pursuant to 28 U.S.C. § 157(e) authorizing the Bankruptcy Court to preside over a jury trial.

28 U.S.C. § 157(e) states that "[i]f the right to a jury trial applies in a proceeding that may be heard under this section by a bankruptcy judge, the bankruptcy judge may conduct the jury trial if specially designated to exercise such jurisdiction by the district court and with the

express consent of all the parties.” 28 U.S.C. § 157(e); see also McCord v. Papantoniou, 316 B.R. 113, at *125 (E.D.N.Y. 2004) (Glasser, J.). In the present case, all parties agree that Defendant is entitled to a jury trial, and have expressly consented to a jury trial before the Bankruptcy Judge. (Def. Aff. at ¶ 5; Trust. Resp. at ¶ 8). Therefore, the Bankruptcy Judge is hereby authorized to conduct a jury trial pursuant to the parties’ express consent and 28 U.S.C. § 157(e).

IT IS SO ORDERED


Sandra J. Feuerstein
United States District Judge

Dated: September 7, 2005
Central Islip, New York